



March 1, 2001

Ms. Joan Kennerly
Senior Assistant City Attorney
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR2001-0786

Dear Ms. Kennerly:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code (the "Act"). Your request was assigned ID# 144558.

The City of Irving (the "city") received a request for the following information:

[1.] Contracts between Texas Stadium Corporation or its affiliates (companies believed to be controlled or owned by Dallas Cowboys owner Jerry Jones) and Texas Stadium's sponsors. These contracts would include, but not be limited to, sponsorship deals with Nike, Pepsi and American Express[.]

[2.] All working papers, including draft reports, from auditors with Arthur Andersen and other accounting firms that relate to their annual "agreed-upon-procedures" review of Texas Stadium Corporation revenues since 1994.

We first note that, in requesting this decision, you have not addressed the requested audit information. Therefore, to the extent that such information exists, we assume that the city has released it to the requestor. If not, you must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

We next address the requested contracts. You raise no exception to the disclosure of the contracts. Instead, you argue that because the city does not have access to the requested contracts, the contracts are not public records. We have considered your arguments. We also have considered the other correspondence and comments that we received from the city, the requestor, and attorneys representing the requestor. *See* Gov't Code § 552.304 (providing that any person may submit comments as to why requested information should or should not be released).

Section 552.002 of the Government Code defines “public information” as

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov’t Code § 552.002(a). You inform this office that the city does not have access to the requested contracts with Texas Stadium’s sponsors. You also inform us that the city is not a party to those contracts. Having carefully considered your arguments, the comments that were submitted by and on behalf of the requestor, and the lease agreement between the city and Texas Stadium Corporation, we conclude that the requested contracts do not constitute “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the city. Gov’t Code § 552.002(a). Thus, as the contracts do not constitute public information, the Act does not require the city to make the contracts available to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor

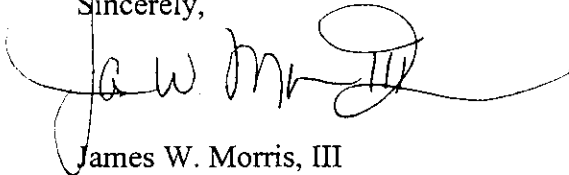
should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J W Morris III', with a stylized flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/er

Ref: ID# 144558

cc: Mr. Miles Moffeit
Fort Worth Star-Telegram
400 West Seventh Street
Fort Worth, Texas 76102